

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

IN RE:	§	
	§	CASE NO. 08-60350-FRM
GLORIA ARMAND,	§	
	§	CHAPTER 13
Debtor	§	

MOTION TO DISMISS

NOW COMES JIM WRIGHT, Creditor in the above-entitled and numbered bankruptcy proceeding, and files this Motion to Dismiss Chapter 13 bankruptcy proceedings and, as grounds therefore, respectfully shows the Court as follows:

1. This case was filed on March 31, 2008
2. The Debtor has filed two motions for extensions of time to file schedules. The schedules were filed on May 9, 2008.
3. The first meeting of creditors is set for May 12, 2008.
4. The means test filed by the Debtor shows that the Debtor's average wages for the past six months is \$678.20. It further shows that her business income, minus expenses, is \$171.83.
5. Schedule I as filed by the Debtor reflects that business income is an estimated or projected monthly income of \$3,440.00; she further states that her monthly income, minus expenses, is \$798. She does not explain how or why she projects more income on Schedule I than she listed on the means test.
6. The Debtor does not state her gross income for 2007 nor for 2006. However she does state that her income to date is \$12,952.96. Creditor does not know if she is including her rental income. However, there are no figures listed on SOFA #2, so it is assumed that the business rental income is included in SAFA #1.
7. The Debtor is self employed and has rental income. There is no expense for the payment of federal tax liability so Schedule J needs to be amended.
8. There is at least one property on which the Debtor must make the property

taxes herself. There is no expense deducted for this on Schedule J. Schedule J must be amended to include this expense.

9. A review of the schedules filed in this case make it obvious that the Debtor does not make sufficient income to prepare a confirmable plan.
10. The first meeting of creditors in this case was scheduled to be held on May 12, 2008. At that time, the schedules reflect that certain pre petition tax returns were not filed. According to the Debtor, she was required to filed tax returns; however, it appears that the Debtor has failed to file her 2007 and 2006 tax returns.
11. Pursuant to 11 USC §1307(e), the Debtor failed to file all pre petition tax returns as required by 11 USC §1308
12. Creditor would show the Court that it is an unreasonable delay to creditors to wait until the date set for confirmation to determine that the Debtor cannot fund a plan. Creditor would ask the Court to dismiss this case after notice and a hearing.
13. Pursuant to 11 USC §1307(e), the Debtor's failure to timely file its pre petition tax returns is also grounds for dismissal.
14. The Debtor's first meeting of creditors was timely held on May 12, 2008. Even though it was not concluded, the Debtor did state that she has not filed a federal tax return for 1998 through 2007. Although the IRS representative stated that the IRS had assessed the Debtor's tax liability for 1998 through 2004, the tax returns have not been filed for 1998-2007.
15. Pursuant to 11 USC §521(2)(A)(i), the Debtor shall provide no later than 7 days prior to the first date set for the first meeting of creditors, a copy of he Federal tax return for the most recent tax year ending immediately before the commencement of the case.....(ii) if the Debtor failes to comply with (I), the court shall dismiss the case unless the Debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.
16. Creditor would show the Court that the Debtor's case should be dismissed for failure to comply with 11 USC §521.

Wherefore, Creditor requests that after notice and a hearing, this Court convert this

